

IN THE UNITED STATES PATENT OFFICE

In re: FENG ET AL.

Serial No. NYA

Filed: June 14, 2004

For: NOVEL BENZODIFURANIMIDAZOLINE AND BENZOFURANIMIDAZOLINE DERIVATIVES AND THEIR USE FOR THE TREATMENT OF GLAUCOMA

PETITION UNDER 37 CFR 1.10

MS PCT
ATTENTION: PCT LEGAL
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

RECEIVED

28 JAN 2005

Legal Staff
International Division

Dear Sir:

Applicants hereby petition the Director to accord the enclosed correspondence, which consists of filing papers for a §371 patent application, a filing date of June 14, 2004.

1. Applicants' §371 patent application was mailed to the USPTO using the USPS "Express Mail Post Office to Addressee" service with sufficient postage on June 14, 2004. The USPS Express Mail item number is EV224562394US.
2. Since a filing receipt had not been received and Applicants' postcard not returned, telephone calls were made by a legal assistant in Alcon's R&D Counsel and IP Law Department to the USPCT Help Desk on or about November 9, 2004, and subsequently on or about December 7, 2004, to inquire about the status of Applicants' §371 patent application. Both telephone calls confirmed that the USPTO was not able to locate any information about Applicants' §371 patent application.
3. Nevertheless, Applicants' application papers were successfully received at the Patent Office on June 15, 2004, as evidenced by the USPS records. A true copy

of the USPS delivery information for Express Mail item number EV224562394US is attached as Ex. A; this information shows that a USPTO representative "Mary Boston" signed for Express Mail item EV224562394US on June 15, 2004 at 10:25 AM in Alexandria, Virginia.

4. Upon the advice of the PCT Help Desk, Applicants' hereby file this Petition pursuant to 37 CFR 1.10, addressed to the PCT Legal Office, and resubmit Applicants' §371 application.

5. This Petition is filed after concluding in December 2004 that Applicants' §371 patent application, which was forwarded to the USPTO on June 14, 2004 (Applicants' Docket No. 2345 US), via USPS Express Mail Air bill EV 224562394 US, was misplaced or cannot be located at the PTO.

6. Attached as Ex. B is a true copy of the USPS Express Mail mailing label EV 224562394 US. This label shows a "date-in" of Applicants' §371 patent application of June 14, 2004, and a "day of delivery" of June 15, 2004. In the upper right hand corner, this label clearly bears the circular date stamp of the USPS' Burleson, TX office with a received date of June 14, 2004.

7. Attached as Ex. C is a true copy of Alcon's Express Mail Corporate Account Mailing Statement showing that Express Mail item number EV224562394US was mailed on June 14, 2004, from Zip Code 76028 to Zip Code 22313. This Statement also shows that the postage charged to Alcon's account on June 14, 2004, for Express Mail item number EV224562394US was \$13.65.

8. Attached as Ex. D is a true copy of Alcon's internal log of Express Mail items showing that Express Mail item number EV224562394US was deposited with the USPS in Burleson, TX on June 14, 2004, at 4:56 PM. This log bears the initials "ss" which are the initials of one of the legal assistants in Alcon's R&D Counsel and IP Law Department.

9. Attached as Ex. E, are true copies of the papers originally filed with USPTO on June 14, 2004, in Express Mail item number EV224562394US:

- A. Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing under 35 U.S.C. 371 (Form PTO-1390), two pages, in duplicate;
- B. Declaration and Power of Attorney (2 pages); and
- C. Return post card (not returned to Applicants) showing Express Mail No. EV224562394 US. This return post card identifies the contents of Express Mail item number EV224562394 US as: Transmittal Letter to the US Designated/Elected Office Concerning a Filing Under 35 USC 371 (2 pages, in duplicate), Declaration and Power of Attorney (2 pages), Return Post Card.

Should the Director require any additional information concerning this Petition, please contact the undersigned.

Respectfully submitted,

ALCON RESEARCH, LTD.

Date: 1/26/05

By:



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